

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

FUTURE ENVIRONMENTAL
INCORPORATED

Employer

and

Case 13-RC-124781

INTERNATIONAL UNION OF
OPERATING ENGINEERS, AFL-CIO
Petitioner

ORDER

The Employer's and the Petitioner's respective Requests for Review are denied. We agree with the Regional Director that all issues concerning Project Supervisor Tim Henderson's eligibility may best be resolved through the use of the Board's challenge procedure. We further find that the Petitioner has not raised any substantial issues warranting review of the Regional Director's conclusion that the Employer demonstrated that the petitioned-for unit is fractured because it excludes 26 laborers/hazard technicians who share an overwhelming community of interest with the included 4 drivers/operators and 3 laborers/hazard technicians. *Specialty Healthcare and Rehabilitation Center of Mobile*, 357 NLRB No. 83 (2011), enfd. sub nom. *Kindred Nursing Centers East, LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013).¹

MARK GASTON PEARCE,

CHAIRMAN

HARRY I. JOHNSON, III,

MEMBER

LAUREN McFERRAN,

MEMBER

Dated, Washington, D.C., March 23, 2015

¹ In reaching that conclusion, we find it unnecessary to pass on the Regional Director's finding that the petitioned-for unit is "readily identifiable as a group" and thus met the first part of the *Specialty Healthcare* test. *Id.*, slip op. at 11.

Under the circumstances of this case, Member Johnson finds it unnecessary to consider whether *Specialty Healthcare and Rehabilitation Center of Mobile*, 357 NLRB No. 83 (2011), enfd. sub nom. *Kindred Nursing Centers East, LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013), was correctly decided.